merce Commission raising the intrastate rates to the level of the interstate rates. *Railroad Commisssion of Wisconsin* v. *Chicago, etc., R. Co.*, 42 Sup. Ct. 232 (1922). The decisions of Chief Justice Taft seem eminently sound, as securing the freedom of interstate commerce from local control.

CONSTITUTIONAL LAW—RELATION OF LANDLORD AND TENANT AFFECTED WITH PUBLIC INTEREST—REGULATION OF RENT VALID EXERCISE OF POLICE POWER.—There existed in the larger cities of the State of New York an insufficient supply of dwelling houses and apartments. In September, 1920, the Legislature, for the purpose of securing to tenants in possession of houses or apartments occupied for dwelling purposes in certain cities, authorized such tenants to continue in possession until Nov. 1, 1922, by the payment of a reasonable rental to be determined by the courts. The Act also provided that it should be a defense to an action by a landlord in such cities that the rent demanded for his dwelling house "is unjust and unreasonable, and that the agreement under which it is sought to be recovered is oppressive." The defendant leased an apartment from the plaintiff to Oct. 1, 1920, at a stipulated rental, payable in monthly installments in advance. While in possession under his lease the defendant executed a new lease for two years, beginning on the expiration of his former lease, at an increased rental. The defendant refused to pay the increased amount of the rent due on Oct. 1, 1920, and asserted his right to continue in possession by virtue of the Act mentioned above. The plaintiff brought a suit against the defendant to recover one month's rent at the increased rate stipulated for in the renewal lease. The defendant averred that the lease was executed under duress and coercion of a threat of eviction, and that the lease was unjust, unreasonable and oppressive. *Held*, plaintiff could not recover. *Edgar A. Levy Leasing Co.* v. *Siegel*, 42 Sup. Ct. 289 (1922).

The essential question presented in this case for decision was the constitutionality of the Emergency Housing Laws of the State of New York, 1920. The Act was held to be constitutional by a divided court, three of the Justices dissenting. The same question was also considered in *Marcus Brown Holding Co.* v. *Feldman*, 256 U. S. 170 (1921) and in *Block* v. *Hirsh*, 256 U. S. 135 (1921).

In the instant case the court began by stating that a private business may, under certain circumstances, become affected with a public interest so as to justify regulation by the State under its police power. Several of the cases cited to sustain this proposition, however, deal with the right of eminent domain. *Clark* v. *Nash*, 198 U. S. 361 (1905); *Strickley* v. *The Highland Boy Gold Mining Co.*, 200 U. S. 527 (1906); *Mt. Vernon-Woodberry Cotton Co.* v. *Alabama Interstate Power Co.*, 240 U. S. 30 (1916). Other cases cited to contain instances of the exercise of the police power similar to the one at bar were all concerned with laws sustained as preventing danger to life and limb. Thus, a Massachusetts Statute limiting the height of buildings was sustained as an effort to prevent the spread of fire. *Welch* v. *Swasey*, 214 U. S. 91 (1909). And a law regulating the erection of billboards was not upheld until the court could find the far-fetched ground that billboards were apt to spread fire and serve as a lurking place for criminals. *Cusack* v. *Chicago*, 242 U. S. 526 (1917); *St. Louis*

*Poster Advertising Co.* v. *St. Louis,* 249 U. S. 269 (1919). Similar rules with regard to the exercise of the police power were laid down in *Plymouth Coal Co.* v. *Pennsylvania,* 232 U. S. 531 (1914); and in *Perley* v. *North Carolina,* 249 U. S. 510 (1919). The court then took up more specifically the right to regulate prices in private businesses, and relied on the case of *Munn* v. *Illinois,* 94 U. S. 113 (1876). In that case all of the authorities cited sustain the dissenting opinion of Mr. Justice Field. Nevertheless, in the next rate case, *German Alliance Insurance Co.* v. *Lewis,* 233 U. S. 389, L. R. A. 1915C, 1189 (1914); *Munn* v. *Illinois, supra,* was followed. Again in the *Munn Case, supra,* there is some doubt as to whether or not the owners of the businesses there regulated had not dedicated them to the public; and if that was the fact, then the case is above criticism, but at the same time it is no authority for the instant case which involves a purely private business.

Only two more cases were considered in dealing with this question of the police power. *Tenement House Department* v. *Moeschen,* 203 U. S. 583, affirming 179 N. Y. 325, 72 N. E. 231 (1906); *Noble State Bank* v. *Haskell,* 219 U. S. 104, 32 L. R. A. (N. S.) 1062, Ann. Cas. 1912A, 487 (1911). In the latter case the court was careful to first ascertain that the charter of the bank had an altering and repealing clause before upholding the regulating law. The former case was cited and relied upon as an instance of the regulation of landlord and tenant under the police power. The law sustained was one requiring that certain plumbing fixtures necessary to prevent the spread of disease be installed in all tenement houses —clearly a proper exercise of the police power, but distinguishable from the regulation of the amount of rental to be charged.

This discussion covers all of the authorities relied on to show that the "Rent Laws" were proper under the police power of the State. This holding is clearly doubtful, and were it not for *Munn* v. *Illinois, supra,* a doubtful case, the holding would be unsound on authority as well as upon principle. The true principle would seem to be that wherever a business has been dedicated to the public; or exercises some special franchise (as eminent domain); or has been granted some particular privilege, as a monopoly created by law, then in return for this privilege, or because of the dedication to the public, the State may regulate that business. *Allnutt* v. *Inglis,* 12 East 527 (1810). The argument for regulating private business is unsound as the previous review of the cases show.

DAMAGES—PHYSICAL EXAMINATION OF PLAINTIFF IN PERSONAL INJURY ACTION MAY INCLUDE BLOOD TEST.—Plaintiff sued defendant in a personal injury action. There is a provision of the New York Code permitting the defendant in such an action to require the plaintiff to submit to a physical examination, under such restrictions and directions as the court may deem proper. The defendant asked for an order of the court for a physical examination of the plaintiff, requiring a blood test, as the examining physician stated in an affidavit that it would be necessary to make such a test to determine accurately the plaintiff's condition. The plaintiff claimed that the statute is not broad enough to justify such an order. *Held,* the order will be granted. *Hayt* v. *Brewster, Gordon & Co.,* 191 N. Y. S. 176 (1921).